

## **REMARKS**

Applicant's counsel thanks Examiner Wong for a careful and thorough examination of the present application. Herein, independent claims 1 and 17 have been amended to specify the vegetable fat component is non-liquid when blended with the remaining components of the cheese substitute. No new matter has been entered. Basis for this amendment can be found in the application as-filed, e.g. at page 2 second full paragraph, as well as page 4 second full paragraph: "As the vegetable based fat coalesces from a softened form a crumbly mass is rendered reminiscent of dairy or conventionally produced grated parmesan cheese." See also first full paragraph on page 6, describing how the fat component is heated to soften it; i.e. not to the point of liquefying. Claim 17 has also been amended to remove parenthetical expressions.

Claims 1 and 17 have been rejected under 35 USC § 102(b) as being anticipated by Blackstock. These claims have now been amended to specify that the vegetable fat component is in a softened (not liquid) state upon mixing with the other ingredients. Conversely, in Blackstock the fat component is rendered in the liquid state, and is combined with the other solid-phase components while still in the liquid state. See col. 3, line 71, referring to the fat as a "liquid ingredient;" see also all of col. 3, line 71 to col. 4, line 2, wherein only after the dry ingredients are mixed together, the liquid ingredients (including the fat) are separately "passed into contact with the dry mixture and blended therewith, for example, about 10 minutes."

With respect to method claim 17, Blackstock clearly does not disclose the method step of softening the fat component and blending it in that state (as opposed to in the liquid state) with the remaining ingredients. Accordingly, the anticipation rejection of claim 17 based on Blackstock is overcome.

With respect to claim 1, the anticipation rejection is also overcome by virtue of the differences in the resulting product obtained by blending the fat component in the softened but not liquid state with the other ingredients, as compared to Blackstock. By blending the ingredients together with the fat in non-liquid form, the resultant product has a texture that feels creamier in the mouth, and a consistency more reminiscent of actual grated cheese, which the claimed cheese substitute aims to replace.

For the foregoing reasons, it is respectfully submitted that the rejections of claims 1 and 17 have now been overcome. All of the remaining claims depend directly or indirectly from either claim 1 or claim 17. Accordingly, all claims are now believed to be in condition for allowance, and notice to that effect is respectfully requested.

If there are any fees required by this communication, please charge any such fees to our Deposit Account 16-0820, Order No. MORE-37106.

Respectfully submitted,  
PEARNE & GORDON LLP

By: /stevenjsolomon/  
Steven J. Solomon, Reg. No. 48719

1801 East 9<sup>th</sup> Street, Suite 1200  
Cleveland, Ohio 44114-3108  
Phone: (216) 579-1700  
Fax: (216) 579-6073

Date: October 28, 2008